

TEST PRESIDENT'S RIGHT TO DISBAND

New Englanders of National Prominence Institute Suit for Purpose

PRIVATE SUES FOR BACK PAY

Man Discharged from Service a
Result of Brownsville Riot
Plaintiff in Case Admitted-
ly Brought to Test Con-
stitutional Authority
of Executive.

WASHINGTON, December 27.—War Department officials are much interested in the reported action of a firm of New York lawyers in bringing a test case in the United States court for the Southern District of New York to determine the right of the executive to discharge a battalion of the Twenty-third Infantry for alleged participation in rioting at Brownsville, Texas. It cannot be recalled that any such action has ever before been brought against the Secretary of War in a United States court under the "Tucker act" of March 3, 1887. Officially this New

War Department. In due course undoubtedly will do so through the service of papers upon the Secretary of War by an officer of the District Court directing him to make answer in the suit filed by the New York attorneys in behalf of Private Reid, of Company C, Twenty-fifth Infantry, against the Government, and about which, which he claims from the date of his dismissal, November 2, 1906, to the date of termination of his enlistment, July 1, 1907. When these papers reach the secretary he will notify the Attorney General, and request that the Department of Justice designate one of its officers to appear for the secretary.

Papers Already Served.
NEW YORK, December 27.—United States District Attorney Henry Stimson said to-day that he had been served with the papers filed in the United States District Court by counsel for W. C. Reid, a member of the battalion of the Twenty-fifth United States Infantry, which was disbanded.

by executive order following the bombing at Brownsville, Texas. The plaintiff sues the government to recover pay and the government's discharge from the army. Attorneys in the case have admitted that they were retained by wealthy gentlemen of New England, whose real object is to determine the legality of the President's action.

Mr. Stimson said that he had seen the complaint only as a cursory examination, but that he did not think there was any evidence that President Roosevelt had "violated" the constitutional rights in discharging the colored soldiers in this manner.

The district attorney added that he had not decided what he would do in the matter. He might, he thought, demur to the complaint, or, possibly, waive that right, and, if he was convinced that he was right in accepting service of the papers, try the case upon its merits.

plaintiff said to-day: "I am not at liberty to tell who the gentlemen are, because of this action are." He added that if his identification of the proper time, a week or so later will be surprised. They are all men of national prominence. The band together in an informal organization for the purpose of seeing that poor individuals received the rights guaranteed them by the constitution of the United States. The selected individual was rejected because his dismissal appeared to them to be a particularly flagrant case of violation of the Constitution. He is a very poor man, but could not seek redress himself.

will help any other kind of white, who has been treated in the same manner. These gentlemen are withholding their names at present because they do not want to be public to attach any political significance to the action. I can state positively to them that politics has nothing whatever to do with their action, which is animated by something higher than that."

SOUTHERN EDUCATORS

State Superintendents Make Report on Public Schools.

LEXINGTON, Ky., November 27.—The members of today's session of the Southern Educational Conference have heard the reports of educational conditions in the Southern States. Ala-

[illegible]

**MINISTER HAS BIG BATTLE
WITH CHRISTMAS TURK**

[Special to The Times-Dispatch.]

SALISBURY, N. C., December 2.—While attempting to behold a turkey gobble at his home in Rowan county Tuesday afternoon, Rev. J. W. Vesperman, a well-known Episcopalian minister, was painfully wounded by the turkey, which

Wallace Arrested for Murder.
[Special to The Times-Dispatch.]
BRISTOL, VA., December 27.—Lester Wallace, the young man who

and killed Lee Eldridge, a man
family, ten miles east of Bris
Christmas afternoon, was captu
near Abingdon, Va., to-day. The c
will be tried at Abingdon, as the k
ing was committed just across
State line in Virginia.